



32692

32692

PATENT TRADEMARK OFFICE

1616

PATENT
Docket No.: 57338US002

TECH CENTER 201200
AUG 26 2003
REC'D
1616
3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

MATTHEW T. SCHOLZ, DANLI WANG,
TRIET M. LU and DONG-WEI ZHU

Serial No.: 10/051,719
Filed: January 16, 2002

For: ANTISEPTIC COMPOSITIONS
AND METHODS

Group Art Unit: 1616

Examiner: F. Choi

CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on:

August 15, 2003
Date

Renee A Wolff
Signature Renee A. Wolff

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This is in response to the Office Action dated July 15, 2003, which was not fully responsive to the restriction requirement dated March 26, 2003, in which the Examiner applied a restriction requirement to Claims 1-39 and 41-43 (Group I); Claim 40 (Group II); and Claims 44-53 (Group III). Applicants elected to prosecute Claims 1-39 and 41-43 (Group I) without traverse.

In the Office Action dated July 15, 2003, the Examiner requested that Applicants select a species for prosecution on the merits. For purposes of the election requirement, the Examiner requested that Applicants elect an antimicrobial agent, a hydroxycarboxylic acid buffer, and a film-forming polymer. Pursuant to the Examiner's request regarding the selection of species, Applicants elect with traverse an iodophor,

lactic acid, and an acrylate polymer, which are all encompassed by the claims of Group I.

In the Office Action dated July 15, 2003, the Examiner further requested that Applicants elect a surfactant. For purposes of the restriction requirement, Applicants elect with traverse an amphoteric surfactant.

The Examiner is requested to note that MPEP 809.02 provides that "when a generic claim is subsequently held to be allowable . . . and all claims are embraced by an allowable generic claim . . . Applicant should be advised of the allowable generic claim and that the claims to the non-elected species are no longer withdrawn since they are fully embraced by the allowed generic claim." Thus, the election is with traverse to the extent that it is understood that (a) the requirement will be withdrawn upon the finding of an allowable genus; and (b) any species withdrawn from consideration will be transferred to the elected subject matter unless it is found patentably distinct from the elected or allowed claims. Applicants traverse on the grounds that the generic claim includes sufficiently few related species that a search and examination of all the species at one time would not impose a serious burden on the Examiner.

If a telephonic interview with the Applicants' undersigned representative would be helpful in resolving any questions, the Examiner is invited to contact the undersigned at (651) 733-2180.

Respectfully submitted,


Nancy M. Lambert
Registration No. 44,856
Attorney for Applicants

NML:jlh/57338US002 Restriction Requirement
Office of Intellectual Property Counsel
3M Innovative Properties Company
P.O. Box 33427
St. Paul, Minnesota 55133-3427
(651) 733-2180
Facsimile: (651) 736-3833

Dated: April 21, 2003